

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I and II, the amendment of	)	PROPOSED ADOPTION,
ARM 37.115.104, 37.115.105,	)	AMENDMENT, AND
37.115.301, 37.115.302, 37.115.303,	)	REPEAL
37.115.306, 37.115.307, 37.115.311,	)	
37.115.312, 37.115.313, 37.115.316,	)	
37.115.317, 37.115.319, 37.115.321,	)	
37.115.504, 37.115.505, 37.115.508,	)	
37.115.509, 37.115.513, 37.115.517,	)	
37.115.518, 37.115.521, 37.115.522,	)	
37.115.602, 37.115.603, 37.115.604,	)	
37.115.605, 37.115.701, 37.115.707,	)	
37.115.804, 37.115.807, 37.115.902,	)	
37.115.905, 37.115.1001,	)	
37.115.1002, 37.115.1003,	)	
37.115.1006, 37.115.1007,	)	
37.115.1009, 37.115.1011,	)	
37.115.1101, 37.115.1202,	)	
37.115.1301, 37.115.1302,	)	
37.115.1307, 37.115.1308,	)	
37.115.1309, 37.115.1314,	)	
37.115.1402, 37.115.1403,	)	
37.115.1406, 37.115.1501,	)	
37.115.1505, 37.115.1507,	)	
37.115.1601, 37.115.1602,	)	
37.115.1701, 37.115.1704,	)	
37.115.1803, 37.115.1809,	)	
37.115.1810, 37.115.1811,	)	
37.115.1814, 37.115.1815,	)	
37.115.1817, 37.115.1819,	)	
37.115.1823, 37.115.1837,	)	
37.115.1839, 37.115.1840,	)	
37.115.1845, 37.115.1905,	)	
37.115.2101, the repeal of	)	
37.115.314, 37.115.904,	)	
37.115.1021, and 37.115.2102	)	
pertaining to pools, spas, and other	)	
water features	)	

TO: All Concerned Persons

1. On August 31, 2011 at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of

Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on August 23, 2011, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rules as proposed to be adopted provide as follows:

NEW RULE I CHEMICAL STORAGE (1) Chemicals and testing equipment shall be stored in a manner that prevents spillage and intermixing, that may cause dangerous chemical reactions such as poisonous gas, fire, or explosion.

(2) Chemicals shall be stored with the covers in place and not in proximity of dripping, leaking, or standing water.

(3) Scoops may not be shared between containers with different chemicals.

(4) Chemicals shall be stored in a correctly labeled container.

(5) Placards identifying the oxidation reactivity must be located on the main door where the chemicals are kept.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

NEW RULE II EQUIPMENT ROOM (1) The equipment room shall be so located that it cannot be entered directly from the shower rooms. If the equipment room is accessed from a public area, the equipment room must be kept locked at all times.

(2) The equipment room shall have a floor drain.

(3) The floor shall have a minimum slope of one-quarter inch per foot toward the drains with no low spots which would allow the water to stand.

(4) The circulation equipment shall be located for convenient inspection and servicing. Adequate headroom shall be provided above pressure filters to allow easy observation and reading of gauges.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.115.104 REQUIRED UPGRADING TO EXISTING FACILITIES AND OPERATIONS

(1) Existing licensed public swimming pools, spas, or other water features that were in use or under construction prior to March 1, 2010 and which do not fully comply with the upgraded requirements for the physical plants set out in ARM Title 37, chapter 115, subchapters 5 through 10, but met the rules in effect at the time of construction, may continue to be operated as long as the facility meets the requirements of the grandfather clause in ARM 37.115.1905 and the operating requirements in this chapter, poses no significant health or safety risks, and is operated and maintained as designed, except that:

(a) Existing pools with slopes that exceed 1:3 in a deep end or diving well ~~must be renovated to no greater than a 1:3 slope by January 1, 2011. Pools that do not meet this requirement will not be licensed after December 31, 2010~~ are exempt from this requirement until major renovations are proposed to the department in a plan review.

(b) Existing public swimming pools, spas, and other water features, must comply with the barrier requirements set out in ARM 37.115.601, 37.115.602, and 37.115.603, ~~and 37.115.604~~ by December 31, 2012, or later date set in these rules. Facilities that do not meet this requirement will not be licensed after December 31, ~~2014~~ 2013.

(c) and (d) remain the same.

(e) License holders of indoor pools, spas, or other water features that currently use isocyanurates or forms of chlorine stabilized with cyanuric acid as a disinfectant must convert to a an unstabilized ~~different~~ disinfectant system no later than March 1, 2011.

(f) ~~Under the provisions of the VGBPSSA, existing pools and spas are required to now be in compliance with the applicable standards set out in 15 USC 8001-8005. Pools, spas, or other water features that have drains that are not in compliance with these requirements may not operate until they are brought into compliance. Licensees must submit certification to the department on or before March 1, 2011 that the drains are in compliance with the Virginia Graeme Baker Pool and Spa Safety Act. If that certificate is not provided to the department by that date, the pool, spa, or other water feature may not operate until the certificate is provided even if the drain complies with federal law. All pools, spas, and other water features must comply with the VGBPSS Act. Licensees are responsible for compliance with the VGBPSSA.~~

(2) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.105 DEFINITIONS In addition to the definitions in 50-53-102, MCA, the following definitions apply to these rules.

(1) through (33) remain the same.

(34) "Circulation system" means the arrangement of mechanical equipment components, connected by piping to and from a pool, spa, or other water feature, causing it to flow through the various system components for purposes of:

(a) clarifying;

- (b) heating;
  - (c) ~~purifying~~ disinfection; and
  - (d) returning the water back to the original body of water.
- (35) through (37) remain the same.

(38) "Critical point inspection" means an inspection performed by the department or its designee that minimally addresses critical health and safety violations outlined in ARM 37.115.301 and 37.115.302, and would include other health and safety violations that may be present, or are pending from prior inspections.

(38) through (44) remain the same but are renumbered (39) through (45).

~~(45) "Diatomite" means the filtering medium of a diatomaceous earth filter that is composed of microscopic fossil skeletons of the diatom, a tiny freshwater aquatic plankton.~~

(46) "Disinfectant" (sanitizer) means any oxidant, which includes but is not limited to, chlorine, chlorine dioxide, bromine, chloramines, and ozone that is added to water in any part of the treatment or distribution process and that is intended to kill or inactivate pathogenic microorganisms.

(47) "Disinfection" (sanitizing) means the process of destroying organisms that may cause illness.

(47) through (63) remain the same but are renumbered (48) through (64).

~~(64)~~ (65) "Free available chlorine" means the portion of the total chlorine remaining in chlorinated water that is not combined with ammonia, ~~or~~ nitrogen, or other organic compounds and that will react chemically with undesirable or pathogenic organisms.

(66) "Full facility inspection" means an inspection performed by the department that addresses compliance with all applicable rules, including review of records.

(65) through (69) remain the same but are renumbered (67) through (71).

~~(70)~~ (72) "Hydrotherapy pool" or "therapeutic pool" or "therapy pool" means a unit that may have a therapeutic use; a heated pool used for aerobic exercise classes or physical therapy which may be prescribed by a physician and excludes general swimming recreation. Its features may include, but are not limited to:

(a) through (f) remain the same.

(71) and (72) remain the same but are renumbered (73) and (74).

~~(73)~~ (75) "Invited guest" means an individual who is visiting a family member or friend and uses the privately owned ~~private~~ pool, spa, or other water feature upon invitation.

(74) through (82) remain the same but are renumbered (76) through (84).

~~(83)~~ (85) "Local board of health" or "board" means a local board as defined in ~~50-2-101~~ 50-1-101, MCA.

~~(84)~~ (86) "Local health officer" or "officer" means a local health officer as defined in ~~50-2-101~~ 50-1-101, MCA.

(85) through (96) remain the same but are renumbered (87) through (98).

~~(97)~~ (99) "Parts per million (ppm)" means a unit of measurement of a chemical concentration which indicates the parts by weight in relation to one million parts by weight of water. It is equivalent to the term milligrams per liter (mg/l).

(98) through (102) remain the same but are renumbered (100) through (104).

~~(403)~~ (105) "Plummet line" means a vertical line extending through the center from the center point of the front edge of the diving platform or springboard to the water's surface.

(104) through (112) remain the same but are renumbered (106) through (114).

~~(113) "Recreational water" means a facility or area together with associated buildings, facilities, and equipment, in conjunction with artificial or natural ponds, springs, lakes, streams, or other bodies of water that is designated for public bathing, recreational and swimming use, and is licensed and operated by the Montana Department of Fish, Wildlife and Parks.~~

~~(114) "Redecorate" means to make cosmetic changes or to add accessories.~~

(115) through (122) remain the same.

(123) "Sanitizer". See "Disinfectant".

~~(123) "Sand Bottom Pools" mean pools that use sand as an interior floor finish over an impervious surface and are equipped to treat and filter the water in the sand areas to maintain a healthful sand condition.~~

(124) "Saturation index" means a mathematical calculation, based on the interrelation of temperature, calcium hardness, total alkalinity and pH, that predicts if pool water is corrosive, scale-forming, or neutral. It can also mean a number that indicates whether water will have a tendency to deposit calcium carbonate scale from a solution, or whether it will be potentially corrosive. When correctly balanced, the water will be neither scale-forming nor corrosive. Also see "Langelier Index". Five factors are used in the computation:

(a) through (133) remain the same.

~~(134) "Single-use spa" means a spa that is completely drained, sanitized, and refilled between each guest. Single-use spas are not required to be licensed.~~

(135) through (140) remain the same but are renumbered (134) through (139).

~~(141) (140) "Spa" means an artificial pool that is designed for recreational bathing or therapeutic use and is not drained, cleaned, or refilled for individual use. A spa includes, but is not limited to, a therapeutic pool, hydrotherapy pool, whirlpool, hot tub, or Jacuzzi-type whirlpool bath. A spa consists of a warm water reservoir with hydromassage jets, that are manufactured of prefabricated material at a factory. A spa may be "self-contained" or "nonself-contained".~~

~~(142) (141) "Splash deck" means a constructed area over which water is sprayed or jetted to contact bathers, but is not allowed to gather and stand. A splash deck may also be known as an "Interactive Play Attraction", a "spray pool", or a "zero depth spray pool". Flow-through splash decks do not recirculate water through a filtration system; whereas recirculation splash decks reuse treated water.~~

(143) through (161) remain the same but are renumbered (142) through (160).

~~(162) (161) "Velocity" means the speed at which a liquid flows between two specified points. Velocity is expressed in feet per second (FPS).~~

(163) through (173) remain the same but are renumbered (162) through (172).

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.301 CRITICAL HEALTH AND SAFETY VIOLATIONS THAT REQUIRE IMMEDIATE CLOSURE (1) The following items are critical health and safety violations that require a pool owner or operator to immediately close a pool, spa, or other water feature and related facilities until the safety violations have been resolved:

(a) through (m) remain the same.

(n) at an outdoor pool, when thunder is heard or lightning has been sighted, the pool shall close and remain closed until 30 minutes after the last thunder clap is heard, ~~or when one or more lightning flashes is observed, the pool shall remain closed for one hour after the last lightning flash is observed~~ or the last flash of lightening is observed, whichever is greater;

(o) remains the same.

(p) pH of the water is less than 7.0 or higher than 7.8 and ~~the chlorine or bromine reading is at or near the minimum required levels~~; and

(q) ~~the main drain pool, spa, or other water feature does not comply with the requirements of the VGBPSSA or if, after March 1, 2011, the department has not been provided with certification from an engineer licensed in Montana that the main drain complies with the requirements of the VGBPSSA~~ based on a visual inspection from the pool or spa deck, and documentation.

(2) remains the same.

(3) The pool owner or operator shall prepare and maintain a ~~report~~ record of each instance in which the pool is self-closed to correct a safety violation under this rule. The report shall be signed by the person responsible for correcting the safety violation and it shall document:

(a) through (e) remain the same.

(4) If any drowning other serious accident or injury has occurred, the report shall be submitted to the department within 48 hours of the incident by faxing it to the Food and Consumer Safety Division, Department of Public Health and Human Services, (406)444-4135 444-5055.

(5) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.302 HEALTH AND SAFETY VIOLATIONS THAT MAY REQUIRE IMMEDIATE POOL CLOSURE (1) remains the same.

(2) The department or its designee may order immediate closure of any swimming pool, spa, or other water feature that is operating without a valid license.

~~(2)~~ (3) The department may close any pool, spa, or other water feature for any of the violations listed in ARM ~~37.115.2104~~ 37.115.301 or 37.115.1309.

(3) remains the same but is renumbered (4).

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.303 REQUIRED INSTALLATION OF ULTRAVIOLET OR OZONE SECONDARY DISINFECTANT DISINFECTION SYSTEM (1) remains the same.

(2) If the corrective action fails to bring the disease outbreak under control, the department will require that the facility install and utilize an ultraviolet ~~disinfectant~~ disinfection system as a secondary ~~disinfectant~~ disinfection system or other type of additional disinfection approved by the department that has been proven to control disease outbreaks as a secondary ~~disinfectant~~ disinfection system.

(3) remains the same.

(4) The department or its designee may require a supplemental UV or ozone disinfection system on a pool, spa, or other water feature in a plan of corrective action when health and safety is threatened as indicated by repeated and documented violations.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.306 QUALIFICATIONS REQUIRED FOR PERSONS PREPARING PLANS FOR REVIEW (1) Plans, specifications, and supporting data for design of a new pool, spa, or other water feature or for reconstruction or remodeling of a currently operating pool, spa, or other water feature must be prepared by a professional engineer who is registered in Montana. The licensed professional engineer shall include his seal and signature on any plans and specifications submitted to the ~~health authority~~ department. Stamps or seals may be provided electronically.

(2) remains the same.

(3) Any plans for any slide structure must be reviewed and approved by a structural engineer licensed in the state of Montana and the plan for the slide must include his or her seal.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.307 SCOPE OF REVIEW BY THE DEPARTMENT (1) remains the same.

~~(2) The department may conduct preliminary inspections of any construction or of any reconstruction to any existing pool, spa, or other water feature during the construction or reconstruction and upon completion to determine whether the design and construction or reconstruction complies with the plans that were submitted.~~

(3) and (4) remain the same but are renumbered (2) and (3).

~~(5)~~ (4) If the department determines it is necessary to have an engineering review conducted on facets of the design including, but not limited to, such things as the total dynamic head (TDH), pipe flow velocities, air exchange, or other complex calculations, it may ~~contact~~ contract with an engineering firm to conduct that portion of the plan review. Costs for such an engineering review will be charged to the applicant or licensee and must be paid to the department before the license is issued.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.311 FEE TABLE

Table 1.

Type	Design Volume	Plan Review Fees	Pre-opening Inspections and Interim Visit Fees
Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others	Less than 4,000 gallons	\$200	\$60
Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others	4,000 – 9,999 gallons	\$400	\$80
Pool, Spa, Wading Pool, Spray Attraction, Lazy River, Others	10,000 gallons or more	\$600	\$100
Review Fees for a Substantial Modification to Existing Filtration or Disinfection systems		\$75	
Engineering Review		\$75	

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.312 PAYMENT OF PLAN REVIEW FEES (1) and (2) remain the same.

(3) If the department requires plan review at identified phases of construction of water parks or complex projects to ensure that the construction is in compliance with the plans, any interim fee outlined in Table 1 must be paid at the time of each such additional review. The fee applies to each pool, spa, or other water feature.

(4) The fee for any pre-opening of a pool, spa, or other water feature is outlined in Table 1. A pre-opening fee applies to each pool, spa, or other water feature opening at the facility to ensure that construction is in compliance with the plan.

AUTH: 50-53-103, MCA



IMP: 50-53-103, MCA

37.115.313 OUTSIDE ENGINEERING REVIEW FEES (1) remains the same.

(2) If the department contracts with an engineering firm to conduct an engineering review, the applicant will be notified in writing. ~~†~~The applicant will be required to reimburse the department for the engineering costs charged to the department by the engineering firm. This fee is in addition to any other applicable review fees set out in ARM 37.115.311, Table 1.

(3) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.316 PLAN REVIEW APPROVAL AND EXTENSIONS (1) and (2) remain the same.

(3) In any instance in which construction is not initiated within one year of plan approval or within the time granted for an extension, ~~construction must cease and~~ plans, specifications, and supporting documents, and appropriate fees must be resubmitted for another review.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.317 PLAN REVIEW DURING CONSTRUCTION PHASE

(1) Whenever plans and specifications must be submitted to the department for review, the department shall review the construction or ~~reconstruction~~ renovation of any pool, spa, or other water features and related facilities to ensure that it is constructed in compliance with the applicable requirements of these rules.

(2) Depending upon the complexity of the project, the department or its designee may require interim site visit reviews to be conducted at phases of construction that the department identifies to the applicant during the initial plan review.

(3) through (5) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.319 CHANGES FROM ORIGINALLY APPROVED PLANS AND FINAL CERTIFICATION (1) remains the same.

(2) ~~The department's fee for conducting a review of a change to an approved plan schematic or disinfectant system will be \$75.~~

(3) remains the same but is renumbered (2).

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.321 INFORMATION AND TRAINING TO BE PROVIDED TO LICENSE APPLICANT (1) Upon completion of any construction or installation at a pool, spa, or other water feature, the ~~contractor, subcontractor, and suppliers must provide the~~ license applicant or licensee of the facility with complete ~~must obtain~~ written plans and operating instructions pertaining to all features or equipment constructed or installed at the pool, spa, or other water features, including the plans and instructions for any and all equipment, the circulation system, and maintenance required for the swimming pool or spa water.

~~(2) The contractor, subcontractor, and suppliers must meet with the owner/licensed operator of the facility and provide training to the license applicant on:~~

~~(a) the operation and maintenance of all equipment installed during the project;~~

~~(b) the operation and maintenance of any circulation system installed during the project; and~~

~~(c) the maintenance required for any swimming pool, spa, or other water feature to meet the requirements of these rules.~~

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.504 SURFACES (1) The inside surface of the pool, spa, or other water feature shall be constructed of materials that ~~are~~:

(a) are nontoxic to humans and the environment;

(b) ~~that~~ are impervious and enduring; and

(c) ~~that~~ will provide a smooth and easily cleaned surface without cracks or open joints (excluding structural joints); and-

(d) are free of any slip, trip, or other injury hazard.

(2) through (4) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.505 SHAPE (1) The shape of any pool, spa, or other water feature must be such that the circulation of the water, for even distribution of disinfectant residual and supervision of swimmers is not impaired.

~~(a) The shape must not impair adequate supervision of bathers.~~

~~(b) The shape must not impair the circulation system's ability to maintain sufficient circulation to meet turnover requirements to ensure proper sanitation.~~

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.508 DRAINS AND SUCTION OUTLETS (1) remains the same.

~~(2) All pools, spas, and other water features constructed after March 1, 2010, shall have dual or multiple main drains.~~

(3) and (4) remain the same but are renumbered (2) and (3).

(4) Existing covers that do not have a VGB certificate, such as site-made covers, must provide a letter by licensed structural/mechanical engineer stating that the cover meets VGBPSSA.

~~(5) No pool, spa, or other water feature may operate after March 1, 2011 unless the licensee submits written certification to the department from an engineer licensed in the state of Montana, that documents that the drains and suction outlets meet the requirements of the Virginia Graeme Baker Pool and Spa Safety Act, even if the pool, spa, or other water feature meets those requirements.~~

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.509 DEPTH MARKERS (1) remains the same.

(2) The water depth shall be marked at maximum and minimum points and at the points of break between the deep and the shallow areas. The markings shall be ~~paced~~ spaced at no more than 25 feet foot intervals measured peripherally.

(3) through (6) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.513 LIGHTING (1) All indoor pools, spas, or other water features and their decking areas that operate at night or that have insufficient natural light to meet the clarity requirements in ARM 37.115.1315 must install and use safe artificial light that is adequate to meet those clarity requirements at all times during operation of the pool, spa, or other water feature. Such lights shall be spaced to provide illumination so that all portions of the pool, spa, or other water feature, including the bottom and drains, may be readily seen without glare.

(2) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.517 DECK AREAS (1) All swimming pools constructed after March 1, 2010, ~~or~~ operated by a municipality shall have a deck surrounding it that is a minimum width of six feet of unobstructed deck area as measured from the pool edge or coping.

~~(2) All privately owned public swimming pools constructed prior to March 1, 2010 must be surrounded by a deck that has a minimum width of four feet of unobstructed deck area as measured from the pool edge. Any privately owned public pool constructed after March 1, 2010, shall have a deck surrounding 100 percent of the pool perimeter that is a minimum width of four feet measured from the pool edge or coping.~~

(3) remains the same.

~~(4) Decks surrounding other water features shall be appropriate to the use intended but shall, at a minimum, provide adequate space for emergency assistance.~~ For pools and other water features built or renovated after adoption of

this rule, a minimum of four-foot deck width shall be provided on the sides and behind any pool equipment such as slide ladders, diving boards, or other equipment that allows ingress into the pool.

(5) and (6) remain the same.

(7) If coping is not of same material and elevation as the deck, the deck shall be measured to the outer edge of the coping.

(8) All deck width requirements must be met and require that no deck equipment or furniture occupies the area. Additional decking area must be added for lounging use, seating, or storage of pool equipment.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.518 DECK SURFACES (1) All deck surfaces must be impervious, slip resistant, clear of tripping or other injury hazard, ~~and easily cleanable,~~ and must entirely surround any swimming pool, or other water feature. Spa decks must ~~be impervious, slip resistant, and easily cleanable and must~~ extend around at least 50 percent of the spa perimeter.

(2) through (4) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.521 HOSE CONNECTIONS (1) Hose connections or plumbing equipped with backflow prevention shall be installed that enable all parts of any pool or spa area to be reached with a hose ~~no longer than 50 feet for effective cleaning.~~ The installed backflow prevention must be adequate to withstand the water pressure needed for the length of hose in use and to prevent back siphonage into the potable water supply system.

~~(2) The water volume and water pressure for hose connections must be sufficient to provide effective cleaning.~~ Hose shall be properly stored when not in use to prevent a potential tripping hazard.

(3) Deck wash material and debris shall not be washed into the pool, spa, or other water feature and must be properly drained to prevent standing water.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.522 WATER SUPPLY (1) An adequate and potable supply of water must be provided. Water may be used from an approved public water supply system or from a source that meets the requirements of (2) ~~and (3).~~

(2) Before a license may be issued, an establishment using an individual, shared, or multiple user water supply must submit ~~the following~~ to the department or its designee coliform bacteria and nitrate test results that meet the requirements of ARM 17.38.207.

(a) through (7) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.602 BARRIERS FOR OUTDOOR POOLS AND WATER FEATURES OTHER THAN SPLASH DECKS (1) For aquatic facilities built after March 1, 2010, barriers for outdoor pools, spas, or other water features, excluding including all splash decks shall be:

(a) through (4) remain the same.

(5) Other designs may be approved in writing by the department.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.603 BARRIERS FOR SPLASH DECKS (1) Existing splash decks and interactive play attractions built after before March 1, 2010 are not required to install must have a barrier that is at least 60 inches high around the deck. Splash decks built before March 1, 2010 must install a barrier meeting this requirement by March 1, 2010.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.604 BARRIERS FOR INDOOR POOLS (1) remains the same.

(2) Existing or new indoor pools located in an atrium or common area with direct access by lodging or room doors or from other common areas must have a minimum four foot high, see-through barrier or fence with lockable gate which does not create a hazard.

(3) Any new or existing pool or spa located in locker rooms or separated by an unsecured door during hours of use must either utilize a self-closing mechanism and latch on a door or put in place a barrier with a minimum height of four feet and a latch for the barrier at 54 inches high, or another design approved, in writing, by the department. Existing pools or spas must meet this requirement no later than December 31, 2013.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.605 DEADLINE FOR RETROFITTING BARRIERS IN EXISTING FACILITIES (1) Existing public pools, spas, and other water features must install barriers that meet the requirements of these rules on or before December 31, 2011 except existing splash decks.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.701 ENTRIES AND PLACEMENT OF STEPS AND LADDERS

(1) Sloping entries used as a pool entrance shall not exceed a one-foot vertical in 12-foot horizontal ratio slope. Sloping entry surfaces shall be of slip-resistant materials.

(2) through (4) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.707 HANDRAILS (1) remains the same.

(2) Handrails must extend from within 18 inches from the bottom vertical face of the last step leading into the pool, spa, or other water feature over the coping to the edge of the deck.

(3) and (4) remain the same.

(5) The water level of the pool must be maintained at a sufficiently high level during operation that a handrail installed to assist a person ~~existing~~ exiting a pool on a ladder extends to within 12 inches of the surface of the water when the pool is being used.

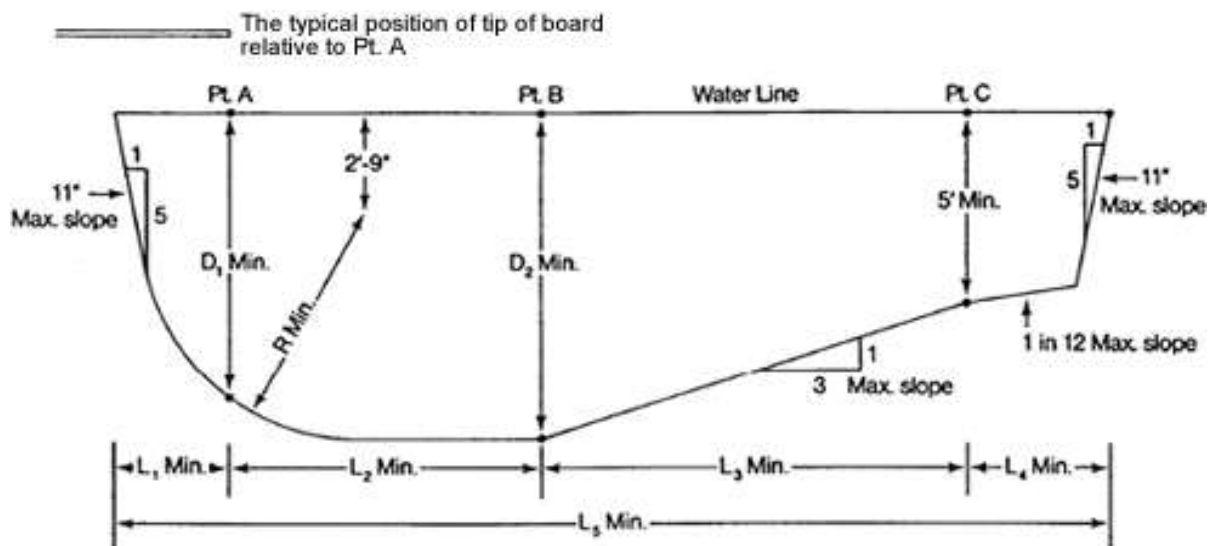
AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.804 DIVING BOARDS - DIVING ENVELOPE DESIGN REQUIREMENTS (1) remains the same.

Figure 2.

~~(This drawing does not show the shallow portion of the pool)~~



NOTE: L<sub>4</sub> is a minimum dimension to allow sufficient length opposite the board. This may of course be lengthened to form the shallow portion of the pool.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.807 DIVING BOARD INSTALLATION (1) and (2) remain the same.

(3) Diving boards or platforms more than one meter high shall be protected with guardrails handrails.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.902 DRESSING ROOMS, TOILETS, AND SHOWER AREAS

(1) The requirements set forth in this subchapter apply to all existing and newly built public pools, spas, and other water features, including privately owned public facilities where nonmembers or nonlodging guests are allowed to use the facility.

(2) With the following ~~two~~ three exceptions, existing pools, spas, or water features shall be equipped with dressing rooms that are located adjacent to the locker room or the showering areas:

(a) seasonal recirculation splash decks and other water features may locate showers in the public area of the pool facility, using tempered water which drain to approved sewer or septic; and

(b) existing hotels, motels, and lodgings are not required to provide dressing rooms and bathrooms adjacent to the pool. New hotels and motels must provide at least one unisex bathroom with a toilet, a hand sink, a changing table, and a shower. The shower may be located in the public area of the pool facility. Newly built facilities must locate the required facilities either in the area of the pool, spa, or other water feature or provide access to such facilities through an adjacent door not exceeding 50 feet from the pool, spa, or other water feature; and

(c) flow-through splash decks are not required to have changing room or showers but must have an adequate amount of toilet facilities meeting ARM 37.115.1814.

(3) through (8) remain the same.

(9) Dressing rooms, toilet, and shower areas shall be lighted so that all ~~parts~~ areas are easily visible for cleaning and maintenance.

(10) Except for flow-through splash decks, Sseparate shower facilities shall be provided in the dressing rooms, shower areas, or entry areas and shall be located so that bathers must pass from the shower ~~room~~ area directly into the pool, spa, or other water feature area for ~~year-round~~ pools, spas, or water features.

(11) and (12) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.905 BABY CHANGING TABLES (1) All ~~pool~~ dressing rooms or restrooms must provide at least one baby changing table with an adjacent waste receptacle with lid and ~~EPA approved sanitizing wipes available to clean the changing table~~ which shall be located in an area not obstructing a hallway.

(2) If the dressing rooms or restrooms in existing facilities are too small for installation of a baby changing table, there may be a common area on the outside wall used as a diaper changing station located within 25 feet of a hand sink and include a barrier, or demarcation designed around the changing area which is approved by the department to prevent general traffic from passing through.

(3) If a restroom or bathroom does not exist for facilities built before March 1, 2010, another location shall be created near the pool side. The area must be restricted with a barrier, or demarcation designed to prevent general traffic passage. A hand washing station or covered receptacle must be provided in the diaper changing area and approved by the department.

(4) All diaper changing stations shall post a CDC or similar sign stating how to wash properly including washing of the child's bottom as well as the child's hands and post it in the diaper changing vicinity.

(5) Any nonabsorbent surface dedicated to diaper changing must be designed to prevent the infant from falling while not creating any other hazard. All surfaces must be nonabsorbent and cleanable.

(6) Any facility that allows only bathers older than diaper age may present documentation of exclusion of children on the premises, for consideration to exempt the facility from the diaper changing area requirement.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1001 RECIRCULATION SYSTEMS (1) and (2) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1002 TURNOVER RATES (1) through (4) remain the same.

(5) When a pool, spa, or other water feature is designed with multiple sections, the most stringent turnover rate must be applied to the entire system.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1003 OPERATION OF CIRCULATION SYSTEM (1) remains the same.

(2) The recirculation system must be operated 24 hours a day. If the system is shut down for periodic maintenance and repair, no person, including any employee of the facility, may be allowed to use the swimming pool, spa, or other water feature.

(3) No more than two spa units may use one recirculation system and no spa may utilize the recirculation or disinfection system of a pool or other water feature. Wading pools and spas constructed after March 1, 2010 must have their own recirculation system separate from any other pool or spa.

(4) remains the same.

(5) The water velocity in the recirculation system piping shall not exceed:



(a) through (c) remain the same.

(6) ~~ReC~~irculation system inlets and outlets shall be installed in a location that will produce uniform circulation of water and which will maintain even distribution of ~~sanitizer~~ disinfectant residual throughout the pool, spa, or other water feature. Inlets and outlets shall be designed and installed so that they do not constitute a hazard to the user.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1006 INLETS (1) through (5) remain the same.

(6) If floor inlets from the circulation system are used, they must be flush with the floor. Floor inlets shall be placed at maximum 15-foot intervals. The distance from floor inlets to a pool wall shall not exceed 7.5 feet if there are no wall inlets on that wall. Each floor inlet must be designed such that the flow can be adjusted to provide sufficient head loss to ensure balancing of flow through all inlets. All floor inlets must be designed such that the flow cannot be adjusted without the use of a special tool to protect against swimmers being able to adjust the flow. The return supply piping must be sized to provide less than 2.5 feet of head loss to the most distant orifice to ensure approximately equal flow through all orifices.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1007 OUTLETS (1) through (3) remain the same.

~~(4) On or before March 1, 2011, the licensee shall provide the department with certification by an engineer licensed in Montana which documents that the main drain velocity of the pool, spa, or other water feature complies with the requirements of the VGBPSSA. The velocity may not exceed a flow of 1.5 feet per second. The pool, spa, or other water feature may not operate after that date until the certificate of compliance is provided to the department.~~

(5) and (6) remain the same but are renumbered (4) and (5).

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1009 SKIMMERS (1) Skimmers may be used in place of overflow gutters as a means of skimming and ~~re~~circulating the water. Skimmers are permitted if at least one skimming device is provided for each 500 square feet of water surface area or fraction thereof, with a minimum of two skimmers required, except that spas or pools with less than 500 square feet of water surface and with a turnover rate that exceeds the minimum requirements under ARM Title 37, chapter 115, subchapters 1 through 22 by at least 25 percent.

(2) through (4) remain the same.

(5) The water level for skimmers must be maintained at the manufacturer's recommended level, which is normally at least one half the vertical height of the skimmer weir.

(6) Each skimmer shall be equipped with an equalizer line or other device to prevent airlock on the suction line should the water of the pool drop below the skimmer weir level, or the water level at the bottom of the skimmer. Equalizer line openings at the pool wall shall be covered with a fitting to prevent entrapment in accordance with ASME A112.19.8-2007.

(7) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1011 FILTRATION EQUIPMENT (1) through (3) remain the same.

(4) Flow meters shall be installed in a straight section of the piping unless the manufacturer's guidelines require the flow meter to be installed in some other location. There shall be straight pipe upstream and downstream from the location of the flow meter. The upstream pipe section must be a minimum of ~~four~~ ten pipe diameters in length. The downstream straight pipe section must be a minimum of ~~ten~~ four pipe diameters in length.

(5) through (8) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1101 OPERATOR QUALIFICATIONS (1) remains the same.

(2) ~~Except for a licensee operating a spa at a tourist home which is drained and cleaned between each use, the licensee of any public pool, spa, or other water feature shall employ, or contract with~~ a Certified Pool Operator (CPO), a certified Aquatic Facility Operator (AFO), or a person who has equivalent current certification approved by the department.

(3) The certified pool operator for the facility shall be at the facility whenever it is open ~~shall be~~ or available to respond by phone or in person to the pool, spa, or other water feature within 30 minutes of being telephoned. ~~If during an inspection the department telephones the certified pool operator and there is no response within 30 minutes, the inspector will note that. If during the next inspection at the same facility the certified pool operator fails to respond to a telephone call within 30 minutes, the department may require that within 30 days the licensee employ a different certified pool operator. Failure to respond in the prescribed time shall be treated as any other violation, and a documented history may require a corrective action plan be submitted to the department or its designee.~~

~~(4) If a pool, spa, or other water feature has been closed during an inspection for any violation of the critical items listed in ARM 37.115.301 or 37.115.302 and is then reclosed on the next inspection visit for any violation of the critical items listed in ARM 37.115.301 and ARM 37.115.302 and the violation is something that cannot be corrected during the inspection visit, the department may require the licensee to take corrective action that may include, but is not limited to, employing a fulltime certified pool operator or requiring remedial training for the licensee's certified pool operator.~~

(5) and (6) remain the same but are renumbered (4) and (5).

~~(7)~~ (6) New pools, spas, or other water features ~~opened after March 1, 2010~~ must meet this requirement in order to operate.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1202 CHLORINE GAS SAFETY EQUIPMENT AND TRAINING

(1) through (5) remain the same.

(6) Any improper use or storage of chlorine gas or inadequate training of facility staff or failure to provide training to emergency responders ~~that requires and~~ is cause for immediate closure of the pool, spa, or other water feature and constitutes a safety violation until it is corrected under ARM 37.115.1201.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1301 TEST KITS (1) Water testing shall measure the following parameters using an FAS-DPD test kit which measures concentrations with precision through the process of filtration:

(a) free chlorine (~~range 0-5 ppm~~) and/or bromine (~~0-10 ppm~~);

(b) total chlorine (~~minimum of .2 ppm~~);

(c) pH (~~range 6.8-8.2~~);

(d) remains the same.

(e) cyanuric acid (0-100 ppm turbidimetric test); and

(f) remains the same.

(2) through (5) remain the same.

(6) Electronic testers may be approved for use by the department or its designee if the accuracy of said kit meets or exceeds parameters listed above.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1302 FREQUENCY OF WATER TESTING (1) remains the same.

(2) The test taken before opening must be a manual test. If the pool, spa, or other water feature has an Oxidation Reduction Potential (ORP) meter installed, that may be used for the other ~~two~~ tests.

(3) through (10) remain the same.

(11) Multisectional pools may be required to test in additional locations and recorded on a regular basis per the department's request.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1307 DISINFECTANT USE (1) remains the same.

(2) All pools, spas, and other water features when open or in use must be continuously disinfected by a chemical that imparts a residual effect and must

maintain an alkaline pH. Dispersal of the disinfectant agent must occur by mechanical means.

(3) through (5) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1308 WATER CHEMISTRY PARAMETERS (1) Water chemistry, temperature, and clarity measurements must fall within the parameters set forth in Table 6:

Table 6.

Parameter	Acceptable range	Ideal range	Maximum/ <u>Comments</u>
Chlorine	2-8ppm	3-5ppm	8ppm
Combined chlorine	0 to 0.5ppm	0.0	0.5ppm
Bromine	2-10ppm	2-8ppm	10ppm
Total Alkalinity	60-220ppm (varies by chemical type and pool surface)	80-100ppm for Cal Hypo, lithium hypo, and sodium hypochlorite; 100-120ppm for Sodium dichlor, trichlor, chlorine gas and bromine compounds	220ppm
Oxygen Reduction Potential (ORP or HRR, which stands for High Resolution Reduction)	650 minimum millivolts (mV)	650-750 minimum millivolts (mV)	no maximum
pH	7.2-7.8	7.4-7.6	<del>7.2-7.8 for all pools, spas, or other water features except</del> flow-through hot springs, <del>which may have a pH up to 9.4 with proper signage</del>
Cyanuric Acid (allowed only in outdoor pools)	<del>0-100</del> 50ppm	10-50ppm	<del>100ppm</del> <u>50ppm</u>
Calcium Hardness	Pools 150-	Pools 200-	<del>Pools 1,000ppm</del>

	1,000ppm	400ppm; Spas 150-250ppm	Spas 800ppm
Temperature	Varies	Varies	Spas 104°F <u>maximum</u> Pools 100°F <u>maximum</u> EXCEPTION: flow-through hot spring pools and spas, which may have a maximum temperature of 100°F for pools and 106°F for spas
Clarity	In the deepest part of the pool, spa, or other water feature, the main drain shall be clearly visible and sharply defined. NTUs must be in the range of 0.0-1.0. <u>See ARM 37.115.1315(1)</u>	In the deepest part of the pool, spa, or other water feature, the main drain shall be clearly visible and sharply defined. NTUs must be less than .5	NTUs up to 1.0 <u>greater than 1.0</u> NTU is "poor" and <u>the facility closed</u>

(2) remains the same.

~~(3) Whenever isocyanurates or cyanuric acid (CYA) are used in a pool, spa, or other water feature, the concentrations of CYA shall not exceed 50 ppm. Recommended levels of CYA are 25-30 ppm. After March 1, 2010, isocyanurates or cyanuric acid shall not be used in newly constructed or renovated indoor pools, indoor spas, or other indoor water features or when a chlorinator is replaced. Licenseholders of indoor pools, spas, or other water features currently using isocyanurates or cyanuric acid shall have one year from March 1, 2010 to convert to a nonstabilized type of disinfectant.~~

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

### 37.115.1309 CLOSURE OF POOL BASED ON WATER CHEMISTRY

READINGS (1) A pool, spa, or other water feature shall be closed immediately whenever a reading falls into one or more of the following categories:

- (a) the chlorine or bromine reading is outside the minimum and maximum ~~reading levels~~ allowed parameters set in ARM 37.115.1308, Table 6;
- (b) and (c) remain the same.

(d) ~~chlorine or bromine readings exceed the maximum set in ARM 37.116.1308, Table 6. pH of the water is less than 7.0 or higher than 7.8 or pH is 7.8 and the chlorine or bromine reading is at or near the minimum required levels.~~  
(2) and (3) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1314 SATURATION INDEX TABLE (1) remains the same.

Table 7.

Temperature (F°)	Temp Factor (TF)	Calcium Hardness as ppm	Calcium Factor (CF)	Total Alkalinity (TA)	Alkalinity Factor (AF)
32	0.0	5	0.3	5	0.7
37	0.1	25	1.0	25	1.4
46	0.2	50	1.3	50	1.7
53	0.3	75	1.5	75	1.9
60	0.4	100	1.6	100	2.0
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	<del>1.7</del> 0.7	300	2.1	300	2.5
94	0.8	400	2.2	400	2.6
105	0.9	800	2.5	800	2.9
128	1.0	1000	2.6	1000	3.0

(2) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1402 GENERAL POOL SIGN REQUIREMENT (1) and (2) remain the same.

(3) Pools and other water features must post signs with the following wording or substantially similar wording:

(a) remains the same.

(b) "Please do not use the pool if you have ~~had~~ diarrhea or any other disease transmittable by water ~~in the past two weeks~~";

(c) "Do not bring food, drink, gum, or tobacco into the pool ~~or onto the deck area~~";

(d) "Nonswimmers and children under age 14 shall not use the pool without a responsible adult or lifeguard in attendance";

(e) through (6) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1403 SPA SIGNS (1) The following rules shall be posted adjacent to the spa. The wording shall be in the following language or substantially similar language:

- (a) remains the same.
  - (b) "Please do not use the spa if you have had diarrhea or any disease transmittable by water in the past two weeks";
  - (c) through (e) remain the same.
  - (f) "Staying in a spa too long may result in dizziness, fainting, and nausea";
- and
- (g) "Heat stroke warning - Users limited to 15 minutes in spa"; and
  - (h) flow-through hot springs shall post a separate sign indicating current temperature and pH if said pH is above 7.8 as well as child health warning as described in ARM 37.115.1845(1)(f).
- (2) All non-flow-through spas must have a sign in letters not less than one inch high stating: "Children age 5 and under are not allowed in the spa".
- (3) and (4) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1406 SPRAY POOL/SPASH DECK SIGNS (1) One or more signs with the following language or substantially similar language shall be posted adjacent to the spray pool:

- (a) Spray hours must be listed and the sign must then state, "Spray pool use at any other time is prohibited";
- (b) ~~"Anyone who has had diarrhea or any other disease transmitted by water in the last two weeks may not use the spray pool"~~ "Please do not use the spray pool/splash deck if you have diarrhea or disease transmittable by water";
- (c) In two inch letters: ~~"Spray features use recirculated water. DO NOT DRINK THE WATER";~~
- (d) through (f) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1501 SAFETY EQUIPMENT (1) Every pool, spa, and other water feature involving pooled water must have the following equipment readily available on-site:

- (a) either a rescue tube or, in the alternative, one or more ring buoys having a maximum of 15 to 16 inches inside diameter with one-quarter inch manila-line or nylon rope at least equal in length to the maximum width of the swimming pool attached securely to the ring buoy and kept in good repair; and
  - (b) a shepherd's crook or reaching pole (made from nonconductive material if underwater lights are used).
- (2) and (3) remain the same.

~~(4) When a lifeguard is required or provided at a pool or other water feature, an elevated seat for the lifeguard must be provided in areas where water depth is deeper than five feet. The lifeguard chair must be located within two feet of the edge of the swimming pool and must be high enough to give the lifeguard a complete and unobstructed view of the area of the pool that the lifeguard is responsible for patrolling.~~

~~(5) Lifeguards shall be equipped with a rescue tube and must be attired so that they are readily identifiable as members of the lifeguard staff.~~

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1505 FIRST AID KIT (1) A first aid kit such as the American Red Cross 10 Person Industrial First Aid, or any such kit designed for use by lifeguards shall be readily available at all times. ~~containing at least the following items and quantities shall be readily accessible at all times:~~

- ~~(a) 1" x 3" fabric bandages, 16;~~
- ~~(b) 1" x 3" adhesive plastic bandages, 32;~~
- ~~(c) 32 sq. in. absorbent gauze compress, box;~~
- ~~(d) 3" compress bandage, off center, 2;~~
- ~~(e) triangular sling/bandage, 1;~~
- ~~(f) 3" x 3" gauze dressing pads, 4;~~
- ~~(g) antiseptic cleansing wipes (sting free), 10;~~
- ~~(h) povidone-iodine infection control wipes, 10;~~
- ~~(i) 1/2" x 2.5 yd. adhesive tape, 2;~~
- ~~(j) Exam quality gloves, 2 pr;~~
- ~~(k) burn relief packs, 6;~~
- ~~(l) 4" x 5" instant cold compress, 1;~~
- ~~(m) 2 sterile eye pads;~~
- ~~(n) 1 oz. eye wash;~~
- ~~(o) 1/2" x 5 yd. first aid tape roll; and~~
- ~~(p) 96 pg. AMA First Aid guide booklet.~~

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1507 TELEPHONE REQUIRED (1) A telephone with an attached handset shall be affixed to the wall near the new or existing pool, spa, or other water feature for the purpose of contacting emergency medical services except for flow-through and recirculation splash decks.

(2) remains the same.

(3) Instructions regarding emergency calls shall be prominently posted next to the telephone or near an entryway of a splash deck and must include the following:

(a) through (e) remain the same.

(4) If a phone is not provided at the splash deck, then there must be a sign posted at the entry stating "No Public Phone Available".



AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1601 WHEN LIFEGUARDS ARE REQUIRED (1) Lifeguards are required to be present and on duty during the operation of any municipally owned or operated pool, spa, or other water feature except splash decks ~~and wading pools~~.

(2) ~~Lifeguards are required for all water slides and flume slides 11 feet high or higher as measured from the deck.~~ Water slides that are 11 feet or greater in height may be required to provide a lifeguard at the bottom of the slide and an attendant at the top of the slide as decided by the department or its designee.

(3) through (6) remain the same.

(7) When a lifeguard is required or provided at a pool or other water feature, an elevated seat for the lifeguard must be provided in areas where water depth is deeper than five feet. The lifeguard chair must be located within two feet of the edge of the swimming pool and must be high enough to give the lifeguard a complete and unobstructed view of the area of the pool that the lifeguard is responsible for patrolling.

(8) Lifeguards shall be equipped with a rescue tube and must be attired so that they are readily identifiable as members of the lifeguard staff.

(9) Lifeguards shall remain attentive to bathers at all times, and minimize any source of distraction.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1602 WHEN LIFEGUARDS ARE NOT REQUIRED (1) remains the same.

(2) A tourist home providing a pool, spa, or other water feature to its guests must post a sign as required in ARM 37.115.301(1)(ii), but is exempt from the requirements of (1)(b).

(3) No lifeguards are required during organized competitive events or swim lessons when swimmer supervision has already been addressed.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1701 POOL CARE (1) All public swimming pools, spas, and other water features and related facilities shall be maintained in a safe, clean, and sanitary condition at all times.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1704 NO ANIMALS PERMITTED IN OR NEAR POOLS (1) remains the same.

(2) Service animals shall be permitted only on the deck area of a pool, spa, or other water feature, if needed, but may not be closer than five feet to enter the water. ~~However, no animal, whether service animal or not, may be permitted within the fence surrounding a spray pad.~~

(3) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1803 WATER SLIDES GENERALLY (1) When a water slide is provided in conjunction with a pool, the slide must:

(a) through (d) remain the same.

(e) water slides that are 11 feet or greater in height ~~must~~ may be required to provide a lifeguard at the bottom of the slide and an attendant at the top of the slide; and

(f) remains the same.

(2) through (6) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1809 ZERO DEPTH ENTRY TO POOL (1) remains the same.

(2) There shall be an overflow drain or weir installed across the full width of the zero depth end of the pool or around the entire perimeter, whichever is more effective in recirculating the water or removing the water properly to the sewer system.

(a) through (3) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1810 MULTISECTION RECREATIONAL POOLS (1) A multisection recreational pool shall comply with all other applicable provisions of the rules. In addition:

(a) ~~the minimum recirculation flow rate for a multisection recreational pool shall be determined by computing the recirculation flow rate for each section of the pool in accordance with other applicable sections of ARM Title 37, chapter 34, subchapters 1 through 22 and adding the flow rates together~~ each section of a multisection recreational pool shall have the demonstrated ability to ensure the proper turnover rate for each section as described in ARM 37.115.1002, Table 5, or all sections will need to meet the most stringent of the turnover rates; and

~~(b) the treated water distribution system shall be designed to return treated water to the sections of the pool in proportion to the flow rates determined in (1)(a); and~~

~~(c) (b)~~ each section of a multisection recreational pool shall be separated from the other sections by a float line ~~or~~ and marking line meeting the requirements of ARM 37.115.1503.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1811 SPLASH DECKS - WATER RECIRCULATION (1) and (2) remain the same.

(3) A recirculation system consisting of pumps, piping, filters, water conditioning and disinfectant equipment and other accessory equipment which meet the requirements of these rules shall be provided which will clarify, chemically balance, and disinfect the water. The splash deck's treatment tank filtration circulation and chemical disinfectant equipment must operate 24 hours a day.

(4) Water may be used one time and immediately drained to waste water or it may be recirculated and disinfected. Existing splash decks that recirculate water must recirculate the entire volume of water through an approved treatment system every hour or less.

(5) through (8) remain the same.

(9) At least one main drain suction outlet that supplies water to the splash deck recirculation tank filtration system shall be provided at the deepest point in the splash deck recirculation tank.

(10) through (12) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1814 SPLASH DECKS - RESTROOM REQUIREMENTS

(1) General use recirculating splash deck facilities shall provide separate restroom facilities for each gender containing at least one toilet and hand washing sink and diaper changing area. Toilet facilities and lavatories shall be maintained and conveniently located no further than 300 feet at from a splash deck. All facilities shall be provided with liquid soap, paper towels or electrical hand drying units, and covered waste receptacles. There must be a sign posted identifying the location of the restrooms with an arrow pointing to its direction.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1815 SPLASH DECKS - CLEANING REQUIREMENTS (1) Hose bibs with anti-siphonage devices shall be provided around splash decks at a maximum spacing of one hundred fifty feet. At the beginning of each day prior to use and at other times when needed, the splash deck must be adequately cleaned and flushed to remove any materials or contaminants on the surface area of the splash deck. The water must be flushed to the waste water system and not discharged into the splash deck recirculation tank.

(2) The splash deck ~~recirculator~~ circulation tank must be designed to provide ready access for cleaning and must be capable of draining. An overflow pipe to convey excess water to an approved wastewater discharge system must be provided.

(3) The splash deck recirculation tank shall be completely drained and cleaned whenever needed to maintain water quality parameters set by these rules, including but not limited to the parameters for alkalinity, pH, and chlorine.

(4) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1817 SPAS TEMPERATURE (1) remains the same.

(2) Spas that are not ~~a hot springs or~~ flow-through hot springs spas must be operated at a water temperature not exceeding 104°F as determined by the use of an inline thermometer. A spa that is ~~a hot springs or~~ a flow-through hot springs may not operate at a temperature above 106°F.

(a) and (b) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1819 SPA RECIRCULATION REQUIREMENTS (1) Spas must meet the following recirculation system requirements:

(a) through (i) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1823 SPA CLEANING REQUIREMENTS (1) Spa operators must drain, thoroughly clean, and disinfect the spa:

(a) and (b) remain the same.

(c) when required as determined by using the following formula: number of spa gallons divided by three divided by the number of bathers in a 24-hour period equals the number of days before draining, cleaning, and disinfecting the spa is required.

(2) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1837 WADING POOLS - BARRIER REQUIREMENTS (1) Wading pools for children shall be physically separated from swimming pools by means of at least a 4-foot high barrier. A barrier shall be provided on the outside of the deck area of all ~~outdoor~~ wading pools and shall meet the following requirements:

(a) through (f) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1839 WADING POOL ATTENDANT REQUIREMENTS (1) remains the same.

(2) Each attendant must be currently certified by either the American Red Cross or the American Heart Association in methods of infant, child, and adult cardiopulmonary resuscitation (CPR) and must be certified by the American Red Cross (or equivalent) in at least standard first aid.

(3) and (4) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1840 WADING POOL RESTROOM AND CHANGING TABLE REQUIREMENTS (1) remains the same.

(2) Each restroom shall provide at least one changing table station and a waste disposal ~~facility~~ container for used diapers.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

~~37.115.1845 HOT SPRINGS POOLS AND SPAS AND FLOW-THROUGH~~  
HOT SPRINGS POOLS AND SPAS - GENERALLY (1) ~~Hot springs pools and other than a~~ A flow-through hot springs pool or spa, must comply with all other provisions of these rules, except for the following:

(a) the pH of pool water in a ~~hot springs or a~~ flow-through hot spring pool must be maintained at no less than 7.2 and no greater than 9.4 with proper signage;

(b) the temperature of a ~~hot spring pool or spa or a~~ flow-through hot spring pool or spa may not exceed 106°F in a pool or spa primarily used for soaking and may not exceed 100°F in a pool used primarily for swimming; and

(c) remains the same.

~~(2) All hot springs pools and spas including flow-through pools and spas, must meet the following requirements:~~

~~(a)~~ (2) Every hot springs pool or spa or flow-through hot spring pool or spa must be equipped with an accurate flow indicator to measure the turnover rate, except that the department may approve the use of an alternate method of establishing an accurate flow rate. To demonstrate that an alternative means of measurement is accurate, the applicant must submit a written application for approval to use that alternative method. The application must demonstrate that the alternative method accurately measures the water volume exchange to produce an 8-hour turnover of the entire volume of pool water to waste water discharge.

~~(b)~~ (3) Every hot springs pool or spa or flow-through hot springs pool or spa must have an inline thermometer installed to monitor the temperature of the pool. The department may allow an alternative method of monitoring pool temperature upon a showing by an applicant who demonstrates that the water temperature can be accurately measured by the alternative method and that the use of the alternative method does not have the potential to cause adverse public health effects. When an alternative method is used to monitor pool temperature, the licensee is responsible for recording the pool temperatures a minimum of twice a day or more frequently as

needed to demonstrate that the temperature is being regulated. The reading shall be recorded and maintained on forms approved by the department.

(4) A sign shall be posted that states: "For their protection, children under the age of 5 are not allowed to enter water over 100 degrees Fahrenheit. The temperature of the pool is \_\_\_\_\_, checked at (time) and the pH is \_\_\_\_\_. The letters in the posting shall be four inches tall and on a separate sign. This requirement must be posted by December 31, 2011.

(5) A thermometer must be in place, available for the patrons to check. Documentation of weekly thermometer calibration must be kept on file for three years.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1905 GRANDFATHER CLAUSE (1) Any licensed pool, spa, or other water feature that is regularly operating on or before March 1, 2010 is entitled to a grandfather clause exemption from any requirement to upgrade to new design and construction standards set in ARM Title 37, chapter 115, subchapters 1 through 22, except as otherwise specifically provided in ARM Title 37, chapter 115, subchapters 1 through 22, until one or more of the following occurs:

(a) the pool, spa, or other water feature undergoes reconstruction, remodeling, or renovation;

~~(b) the pool, spa, or other water feature fails for any reason to be operating and open to the public at least 60 days in the calendar year of the license;~~

(c) through (e) remain the same but are renumbered (b) through (d).

(2) remains the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.2101 NOTICE OF VIOLATION (1) When an inspector has determined that a violation of Title 50, chapter 53, MCA, or these rules has occurred, the inspector ~~shall~~ may provide a written notice of violation to the on-site operator of the facility which:

(a) through (5) remain the same.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

5. The department proposes to repeal the following rules:

37.115.314 PAYMENT OF REVIEW FEES, is found on page 37-29333 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-103, MCA

37.115.904 SHOWERS, is found on page 37-29417 of the Administrative Rules of Montana.

AUTH: 53-50-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.1021 EQUIPMENT ROOM, is found on page 37-29447 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, MCA

37.115.2102 IMMEDIATE SUSPENSION OF LICENSE; EMERGENCY CLOSURE OF POOL, SPA, OR OTHER WATER FEATURE, is found on page 37-29627 of the Administrative Rules of Montana.

AUTH: 50-53-103, MCA

IMP: 2-4-631, 50-53-201, 50-53-211, 50-53-212, MCA

## 6. Statement of Reasonable Necessity

The Department of Public Health and Human Services (the department) is proposing these changes to the swimming pool, spa, and other water feature rules to more accurately represent the purpose and intent of the rule. Many of the following changes are simple clarifications, grammatical errors or internal inconsistencies. There are some substantive changes that are specifically outlined below.

### New Rule I

The department is proposing New Rule I to address the proper storage of chemicals and testing equipment for safety reasons. In a pool chemical room there is a high potential for chemical mixing that can create toxic gasses, cause fires, and even explosions.

### New Rule II

The department is proposing New Rule II to address the location and minimum standards of the circulation equipment room.

### ARM 37.115.104

The department is proposing to modify this rule to allow existing pools to continue operating without major renovation expenses. The department recognizes a minimal increased risk if other warning measures are employed (e.g., pool bottom markings, swim lines or lifeguards). The blanket requirement would prove cost prohibitive to facilities on limited budgets. When such time arises that the shell of the pool is substantially modified, said slope will need to meet current rule.

The department is proposing to remove excess wordage in (1)(f) to simplify the requirement to resemble that of other federally mandated laws (e.g., Americans with Disabilities Act) in that it is the operator's responsibility to ensure full compliance at all times.

ARM 37.115.105

The department is proposing changes to the definitions as follows:

(38) The department is proposing language to define the difference between a full facility inspection and a critical point inspection. A critical point inspection will be the follow up annual inspection performed on nonseasonal pools to address critical public health issues, and address any outstanding issues from previous inspections.

(45) The department is proposing to remove "diatomite" as the common term of diatomaceous earth has already been described in ARM 37.115.105(57)(c).

(47) The department is proposing to define "disinfection" as it is used in rule along with disinfectant, and "disinfection" is a process as opposed to a substance.

(66) The department is proposing to define "full facility inspection" as the annual inspection performed on all facilities, seasonal and nonseasonal. This inspection will include all critical violations, operations, and maintenance issues associated with the pool, spa, or other water feature.

(70) The department is proposing to clarify the definition of "hydrotherapy pool" in order to differentiate these pools as nonpublic, and not a recreational water feature.

(72) The department is proposing language to further describe "hydrotherapy pool" as a prescribed and attended pool that would not require licensure due to its nonpublic nature.

(99) The department is proposing language to better define "parts per million" as a factor of concentration as opposed to a stand alone chemical compound.

(113), (123), and (134) The department is proposing to remove "recreational water", "sand bottom pool", and "single use spa" from the definitions as they are no longer licensable facilities and bear no relevance to this rule.

(140) The department is proposing to remove part of the definition of "spa" as it precludes spas built in place, and limits spas to prefabricated units.

(141) The department is proposing to expand the definition of "splash deck" to describe an application that does not rely on a re-used water source. The source of water would be one that meets sanitation requirements and drains to waste, so therefore needs no further treatment.



ARM 37.115.301

The department is proposing language in (1)(n) to clarify the time and duration of outdoor pool closure as it relates to thunder and lightning.

The department is proposing language in (1)(g) to allow for immediate closure if the main drain is visibly not capable of avoiding entrapment hazards (e.g., broken or missing), and to remove redundant language covered in ARM 37.115.104(1)(f).

The department is proposing to add language in (1)(p) to include a pH less than 7.0, as sanitizer effectiveness is directly affected by extreme pH readings, and when pH is at lower levels there will likely be eye irritation.

ARM 37.115.302

The department is proposing language in (2) to reinforce the need for a current license through the department to operate a public bathing place, as set forth in 50-53-201, MCA.

ARM 37.115.303

The department is proposing language in (3) and (4) to allow for requiring a secondary disinfection system when there is a documented history of a threat to the public health, and is proposing to strike (5) as it is overly restrictive, and removes professional discretion.

ARM 37.115.306

The department is proposing to clarify that plans, specifications, and supporting data for design of a new pool, spa, or other water feature be submitted only to the department for review.

ARM 37.115.307

The department is proposing to remove inspection language in this chapter, as it is more appropriately addressed in ARM 37.115.317.

ARM 37.115.311

The department is proposing to remove this specific information as it is more appropriately addressed in ARM 37.115.313 and allows for flexibility in the amount charged for external engineering reviews.

ARM 37.115.312

The department is proposing language that would allow the department or its designee to be compensated for interim visits during the construction phase, and defines the pre-opening fee outlined in Table 1.

ARM 37.115.313

The department is proposing to add language in (2) to increase transparency and notification to the applicant.

ARM 37.115.316

The department is proposing to remove unnecessary language from (3). The section indicates that construction has not begun, and uninitiated construction cannot be ceased.

ARM 37.115.317(2)

The department is proposing language that shares responsibility with those counties that have a signed and approved cooperative agreement.

ARM 37.115.319(2)

The department proposes removing language already covered in ARM 37.115.311, Fee Table.

ARM 37.115.321

The department proposes clarifying responsibilities of the licensee who has the responsibility to obtain appropriate training, and not a required role of the contractor to supply said training. These rules are intended to provide guidance to licensees, and have no regulatory bearing on contractors.

ARM 37.115.504

The department is proposing to add language in (1)(d) to preclude safety hazards that may be caused by inadequate maintenance.

ARM 37.115.505

The department is proposing to simplify language to achieve the desired goal.

ARM 37.115.508

The department is proposing to remove dated language in (2), and adding criteria for drain covers made on site, as they have not been tested by an independent third party insuring compliance with Virginia Graeme Baker Pool and Spa Safety Act (VGBPSSA), as certified by a licensed structural/mechanical engineer. The

department is proposing to remove (5) as it is redundant. The requirement in the current rule to have an engineer certify the covers was impractical. When an approved cover is installed according to manufacturer's specification the engineering certification has already been done. Facility compliance with VGBPSSA is outlined in ARM 37.115.104(1)(f).

#### ARM 37.115.517

The department is proposing to modify language to require municipally owned pools to have a six-foot deck, while privately owned public pools would only require four feet minimum unobstructed deck width. Unobstructed deck widths are necessary for bather passage and in the event of an accident the deck is needed for emergency bather care. The reason for an increased deck width at a municipal pool is that there is a higher anticipated bather load and the potential for larger numbers of bather-accompanied observing from the deck area.

#### ARM 37.115.518

The department proposes removing spa language as it is already covered in all deck surfaces above.

#### ARM 37.115.521

The department proposes removing maximum length of hose as there is no supporting safety data in reference to the length of the hose. The department proposes adding language in (1) to clarify the use and need of hose for effective cleaning. The department is proposing to add language in (2) for the proper storage of hose while not in use, for safety reasons. The department is proposing to clarify (3) to address the required clean up after deck washing is complete.

#### ARM 37.115.522

The department is proposing to remove (3) from this section as (3) addresses nonpotable water.

#### ARM 37.115.602

The department proposes removing confusing language from the chapter title and clarifying the need for barriers for all splash decks. The intent is to keep animals from entering the area while the facility is not operating, and to minimize damage during winter months. The department proposes to add language in (5) to accommodate alternative barrier options proposed by an applicant that must be approved in writing.

#### ARM 37.115.604

The department is proposing to add language for the protection of unwanted access to pool areas when the pool is not in operation, or under supervision. If not secured a pool can be an attractive nuisance and attract small children and increase the chance of drowning. Language is also proposed to accommodate alternative barrier options proposed to the department and approved in writing.

ARM 37.115.605

The department proposes language to exclude existing splash decks from retro fitting barriers due to financial considerations and limited risk as there is no standing water for drowning threat.

ARM 37.115.701

The department is proposing language to further clarify how to determine slope.

ARM 37.115.707

The department proposes language to more accurately reflect the ANSI requirement in ANSI Chapter 23.4. A handrail extending to the bottom of the last step can be a hazard in such cases as lap pools.

ARM 37.115.804

The department is proposing to remove qualifying language concerning the diagram, as the diagram does show the shallow portion of the pool.

ARM 37.115.807

The department proposes more accurate language with existing definitions of handrails and guardrails.

ARM 37.115.902

The department proposes language to clarify that existing and newly built facilities are required to have toilet facilities within 50 feet of the pool, spa, or other water feature. All facilities (with the exception of flow-through splash decks, due to the fact that the system is in all practical terms, a shower) shall have changing rooms for bathers to change into and out of bathing clothes.

ARM 37.115.905

The department is proposing to add language to accommodate variables when installing a required baby changing table, and to ensure the safety of the child, and prevent the general public from coming in contact with changing areas. Pathogens are often times associated with changing diapers, and a table designed for such activity helps reduce the chance of spreading illness.

ARM 37.115.1002

The department is proposing to add language to accommodate the increasing numbers of multisection pools with varied turnover rates. Due to the fact that different types of pools have different turnover rates to help ensure proper pool sanitation, it is necessary to demonstrate how individual turnover rates will be achieved.

ARM 37.115.1006

The department is proposing language to outline the necessary placement of floor inlets to facilitate the proper circulation of water throughout the pool to ensure sanitizer distribution. Without full circulation some areas in the pool would potentially become "dead spots" that may not be able to sustain an adequate sanitizer residual.

ARM 37.115.1007

The department is proposing to remove duplicate language that is already addressed in ARM 37.115.104(1)(f).

ARM 37.115.1011

The department is proposing language to clarify the optimum location of flow meters, as previous language was reversed, and not consistent with industry standard.

ARM 37.115.1101

The department is proposing language that more accurately describes the role of the certified pool operator (CPO) and the ramification if contact is not made in the prescribed time. The requirement of facilities to have a CPO available is intended to ensure a full understanding of the mechanical operation of the pool and the importance of water chemistry as well as knowledge about how to fix deficiencies in mechanical operations or water chemistry.

ARM 37.115.1301

The department is proposing to add language in (6) to accommodate the use of other test kits that meet the basic accuracy requirements of the FAS-DPD titration test kit. The benefit of the FAS-DPD test is the degree of accuracy in relation to sanitizer residual, and has less chance of false readings due to color comparison.

The department is proposing language in (11) to expand testing to multiple locations in multisection pools due to different turnover rates for various sections.

ARM 37.115.1307

The department is proposing to add language to allow for closure of seasonal facilities.

ARM 37.115.1308

The department is proposing to change Table 6 to better define chemical parameter ranges and to identify the need for proper signage for those flow-through hot springs that are allowed to have a pH up to 9.4, and temperatures up to 106°F. The department proposes to simplify language in (3) as Table 6 already addresses Cyanuric Acid (CYA) levels, and the date for compliance has passed.

ARM 37.115.1309

The department is proposing new language to help explain the fact that as pH goes up, the effectiveness of sanitizers goes down. That said if the pH is near the upper limit, and sanitizer near the lower limit the amount of available sanitizer residual in the water may not be sufficient to kill pathogens associated with recreational water illness.

ARM 37.115.1314

The department is proposing to fix typographical errors in Table 7.

ARM 37.115.1402

The department is proposing to remove language from (3)(b) because the language is not needed.

ARM 37.115.1403

The department is proposing to add language in (1)(h) to require bather notification when pool chemistry parameters are outside the norm. While flow-through hot springs can have a pH up to 9.4, bathers need to be made aware of this as pH above 7.8 can cause eye and skin irritation.

ARM 37.115.1406

The department is proposing language to keep signage consistent between types of pools.

ARM 37.115.1501 and ARM 37.115.1601

The department is proposing language to include the use of nonconductive materials when used in conjunction with potential electric shock. The department is proposing to move language from (4) and (5) to ARM 37.115.1601 which is a more appropriate location as it deals with lifeguards.

ARM 37.115.1505

The department is proposing to remove specific language pertaining to the contents of the kit, and address the need for an appropriate first aid kit to be available at all times. Listing individual items in a first aid kit would require an inspector to "inventory" these items, and would require a large time commitment that is unnecessary.

ARM 37.115.1507

The department proposes language to include new and existing facilities with the exception of flow-through splash decks given the minimal risk posed by such a facility with no standing water, or circulation requirements (no suction entrapment hazard).

ARM 37.115.1601

The department is proposing to change the language in (2) pertaining to water slides to allow the local authority to determine if a lifeguard and attendant are required. There is no supporting information to justify a standard height requirement of 11 feet. The inspector may use professional judgment as to the location and number of staff. An example may be if the bather entering the slide cannot see if the previous bather has exited the receiving water, staff may be required to monitor traffic flow.

The department is proposing to move language from ARM 37.115.1501(4) and (5) to ARM 37.115.1601(7) and (8).

The department is proposing to add language in (9) to grant enforceability if a lifeguard is using a cell phone, texting, or other device that may distract attention (e.g., headphones, hand-held video game).

ARM 37.115.1602

The department is proposing to add language in (3) stating that lifeguards are not required during organized competitive events or swim lessons at municipal or privately owned public pools as qualified supervision is already provided.

ARM 37.115.1701

The department is proposing additional language to be inclusive of safety at facilities, and not limit language to clean and sanitary.

ARM 37.115.1704

The department is proposing language to clarify where service animals can be in relation to swimming pools and spas, and to fully preclude all animals from entering

the water. An animal within a splash pad would, in all practical terms, be entering the water.

ARM 37.115.1803

The department is proposing language to allow professional judgment to be exercised when addressing ARM 37.115.1601(2), as noted above.

ARM 37.115.1810

The department is proposing language to address turnover rates in pools with more than one turnover requirement. If a pool has multiple turnover rates and there are no separate filtration systems, the most stringent rate will be applied to the entire body of water. This is to help ensure proper sanitizer residual is present in each section of the pool to help prevent water borne illness.

ARM 37.115.1814

The department proposes new language to support the reference noted in ARM 37.115.902(c).

ARM 37.115.1817

The department proposes a clarification of conflicting information, and make requirement consistent with 37.115.1308 Table 6.

ARM 37.115.1839

The department is proposing language to allow for more flexibility in certifying organizations.

ARM 37.115.1845

The department proposes language to clarify exempted water quality parameters for flow-through hot springs, and to be consistent with language used in ARM 37.115.1308 Table 6.

ARM 37.115.1845

The department is proposing language in (1)(f) to make bathers aware that there are serious health concerns with children bathing in water greater than 100°F. These health effects include brain stem damage and reproductive organ disruption.

The department is proposing language in (2) that requires a thermometer be available so bathers can monitor the temperature of the pool at any time. Because thermometers can fail, they need to be calibrated (checked for accuracy) regularly.



ARM 37.115.1905

The department proposes removing this language as it precludes seasonal facilities due to months of nonoperation.

ARM 37.115.2101

The department is proposing a language modification for flexibility and efficiency, would require Notice of Violation (NOV) for all violations, not just those requiring closure.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., September 8, 2011.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Shannon McDonald  
Rule Reviewer

/s/ Laurie A. Lamson for  
Anna Whiting Sorrell, Director  
Public Health and Human Services

Certified to the Secretary of State August 1, 2011